

0048049

From: William Covalleski [drink@victorybeer.com]

Sent: Monday, October 20, 2003 8:02 PM

To: nprm@ttb.gov

Subject: RE: TTB Notice #4

victory brewing company Chief, Regulations and  
Procedures Division Tax and Trade Bureau PO Box  
50221 Washington, D.C. 20031-0221 fax: (202)  
927-8525

October 20, 2003 RE: TTB Notice #4, Flavored  
Malt Beverages and Related Proposals  
(2001R-136P) Dear Sir or Madam: Victory Brewing  
Company supports the proposed regulations for  
products marketed as flavored malt beverages  
(FMBs), as set forth by the Tax and Trade Bureau  
(TTB) in TTB Notice No. 4 of March 2003. It is  
appropriate that the limit of alcohol in a beer  
derived from distilled spirits be limited to 0.5%  
alcohol by volume. The 0.5% alcohol by volume  
limit is the standard for determining the tax  
status of beer, wine and fruit flavor  
concentrates, as well as juices and sodas that  
contain small amounts of alcohol. The 0.5%  
standard is fair across the board for all  
beverages, and should apply to FMBs with added  
flavors as well.

The perception  
of the general public is that beer is a beverage  
with malt flavor and hop bitterness, flavor and  
aroma. Many small brewers currently produce  
flavored malt beverages that have these  
characteristics. The products currently  
classified as FMBs and recently analyzed by TTB  
display none of these characteristics, and  
should not be considered or taxed as beer. The  
manner of FMB production described in Notice No.  
4 avoids many of the costs associated with the  
volume demands of beer production and storage,  
and enjoys an unfair competitive advantage over  
traditional and craft brewers, based on the  
regulations. I commend the TTB on recognizing  
the imbalance and the need to propose  
regulations.

The  
alternative limit would create a huge disruption  
to state governments who currently have  
regulations mirroring the federal standards. TTB  
has correctly analyzed state laws and  
regulations, and the 0.5% standard appears to  
eliminate the need for changes in a majority of  
states.

The beer industry has undergone

and many small towns. These small businesses employ tens of thousands of people. Victory Brewing Company employs 45 persons.

The craft beer brewers represent an industry that the federal government should foster and protect. The smaller players often rely on the goodwill and patronage of a single community or smaller geographic area. These businesses encourage responsible enjoyment of the unique attributes of beer, often with meals to complement a particular beer style.

The proposed regulations return fairness to the alcohol industry that has been compromised by recent entries in the FMB category. The number of microbreweries closing since the arrival of FMBs has exceeded the number of microbreweries opening, reversing the trend and weakening the industry.

In summary, our company supports the proposed 0.5% standard for FMBs for reasons of fairness and to protect the image of what the general public considers beer. Sincerely, William Covalleski, Brewmaster 420 Acorn Lane Downingtown, PA 19335 6108730881 fax 6108730985